

Message Text

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17S

ACTION DLOS-04

INFO OCT-01 ARA-06 EA-07 ISO-00 AF-06 EUR-12 NEA-10

ACDA-05 AGR-05 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00

CIEP-01 OFA-01 COME-00 DODE-00 DOTE-00 EB-07 EPA-01

ERDA-05 FMC-01 TRSE-00 H-02 INR-07 INT-05 IO-10

JUSE-00 L-03 NSAE-00 NSC-05 NSF-01 OES-03 OMB-01

PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06 FEA-01 /146 W

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R 090030Z SEP 75

FM AMEMBASSY QUITO

TO SECSTATE WASHBZ 7123

INFO AMEMBASSY LIMA

AMEMBASSY MEXICO

AMEMBASSY SANTIAGO

AMEMBASSY TOKYO

AMCONSUL GUAYAQUIL

USUN NEW YORK

C O N F I D E N T I A L QUITO 6672

E.O. 11652: GDS

TAGS: PFOR, EC, CI, PE, PLOS

SUBJECT: ECUADOREAN REVISED DRAFT OF ARTICLE #53 ON HIGHLY
CS MIGRATORY SPECIES

REF: QUITO 6666

1. THE FOREIGN MINISTRY GAVE POL COUNS ON THE EVENING OF

SEPTEMBER 3 A COPY OF A REVISED DRAFT OF ARTICLE 53 OF THE
INFORMAL SINGLE NEGOTIATING TEXT FOR THE LAW OF THE SEA.
THIS DRAFT WAS STUDIED BY AMBASSADORS MOORE AND CLINGAN
ON SEPTEMBER 4, AND WAS A MAJOR SUBJECT OF DISCUSSION IN
AMBASSADORS MOORE AND CLINGAN'S INFORMAL TALKS WITH THE
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GOE ON SEPTEMBER 5.

2. WHEN FOREIGN MINISTRY OFFICIALS GAVE THE DRAFT TO THE

POL COUNS THEY EMPHASIZED THAT THE DRAFT DOES NOT REPRESENT AN OFFICIAL PAPER OF THE GOE BUT IS A PERSONAL AND INFORMAL DRAFT. THEY STRESSED THAT IT IN NO WAY ALTERS ECUADORS JURIDICAL POSITION IN FAVOR OF A TERRITORIAL SEA, EVEN THOUGH IT WAS PREPARED WITHIN THE FRAMEWORK OF THE INFORMAL SINGLE NEGOTIATING TEXT.

3. ECUADOREAN OFFICIALS STATED THAT THE DRAFT WAS CLEARED BY CHILE AND PERU. THEY REGARD THE DRAFT AS A DOCUMENT FOR USE IN THE INFORMAL MEETING OF EASTERN PACIFIC COASTAL COUNTRIES SCHEDULED FOR NEW YBK FROM SEPTEMBER 29 TO OCTOBER 10.

4. FOR TOKYO. AMBASSADOR MOORE AGREED TO THE GOE'S REQUEST TO CONVEY THE CONTENT OF THE ECUADOREAN DRAFT TO THE GOJ.

5. TEXT FOLLOWS:

A REVISED DRAFT OF ARTICLE 53 ON HIGHLY MIGRATORY SPECIES

ARTICLE 53

(1) THE COASTAL STATE, WHILE EXERCISING THE SOVEREIGN RIGHTS RECOGNIZED IN THIS CONVENTION, WILL REGULATE, WITHIN ITS EXCPESIVE ECONOMIC AREA, FISHING FOR THOSE HIGHLY MIGRATORY SPECIES WHICH ARE LISTED IN THE EXHIBIT, BY TAKING INTO ACCOUNT THE PROVIBSONS OF ARTICLES 50, 51 AND 52 AND THE PROCEDURES PRESCRIBED IN THIS ARTICLE.

(2) THE COASTAL STATE AND THE OTHER STATES WHOSE NATIONALS HAVE BEEN FISHING FOR HIGHLY MIGRATORY SPECXPS IN THE REGION WILL COOPERATE, EITHER DIRECTLY OR THROUGH THE PROPER INTERNATIONAL ORGANIZATIONS, WITH A VIEW TO INSURING THE CONSERVATION AND OPTIMUM USE OF SUCH SPECIES THROUGHOUT THE REAGION. IN THOSE REGIONS WHERE THERE IS NO ADEQUATE INTERNATIONAL ORGANIZATION, THE COASTAL STATES AND THE OTHER STATES WHOSE NATIONALS HAVE BEEN FISHING FOR THOSE
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SPECIES IN THE REGION WILL COOPERATE FOR THE PURPOSE OF ESTABLISHING AN ORGANIZATION OF THIS TYPE AND WILL PARTICIPATE IN ITS WORK.

(3) ON THE BASIS OF AVAILABLE SCIENTIFIC AND OTHER PERTINENT INFORMATION, THE MEMBER STATES WILL, THROUGH THE ORGANIZATION, DRAW UP RULES INTENDED TO INSURE CON-

SERVATION OF THOSE HIGHLY MIGRATORY SPECIES THROUGHOUT THE REGION, INCLUDING A DETERMINATION OF THE MAXIMUM PERMISSIBLE CATCH. THE ORGANIZATION WILL LIKEWISE PREPARE RECOMMENDATIONS RELATING, AMONG THE OTHER THINGS, TO AN EQUITABLE DISTRIBUTION, FISHING LICENSES, PAYMENT OF FEES AND APPLICABLE PENALTIES.

(4) IN DRAWING UP SUCH RULES AND RECOMMENDATIONS THE

ORGANIZATION WILL TAKE INTO CONSIDERATION ALL PERTINENT

FACTORS AND CIRCUMSTANCES, INCLUDING, AMONG OTHER THINGS, AN ESTIMATE OF THE FISH POPULATIONS, THEIR MIGRATORY RANGE AND THE EXTENT OF THEIR EXPLOITATION; THE EFFECTS OF THEIR CAPTURE ON ASSOCIATED OR DEPENDENT SPECIES; THE CAPACITY FOR FISHING OF THOSE STATES ENGAGED IN FISHING FOR HIGHLY MIGRATORY SPECIES IN THE REGION; THE NEEDS AND POSSIBILITIES FOR DEVELOPMENT OF SUCH CAPACITY FOR FISHING BY THE RESPECTIVE LESS WELL DEVELOPED COASTAL STATES OR MIXED ECONOMY COMPANIES OF STATES IN THE REGION; AND THE OTHER ECOLOGICAL, ECONOMIC AND PROCEDURAL ASPECTS CONTEMPLATED IN ARTICLES 50 AND 51.

(5) IN THE EVENT THAT NO AGREEMENT IS REACHED, A MAJORITY OF TWO-THIRDS OF THE ATTENDING AND VOTING STATES WILL BE REQUIRED FOR ADOPTION OF RULES AND RECOMMENDATIONS BY THE ORGANIZATION. FOR ADOPTION OF RECOMMENDATIONS RELATING TO PERMISSIBLE CATCHES WITHIN A STATE'S EXCLUSIVE ECONOMIC AREA, THE CONSENT OF THIS STATE WILL BE REQUIRED.

(6) THE MEMBER STATES OF THE ORGANIZATION WILL INSURE THAT THEIR LEGISLATIONS ARE IN AGREEMENT WITH THE RULES DRAWN UP BY THE ORGANIZATION AND THAT THEY TAKE ITS CONFIDENTIAL

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RECOMMENDATIONS INTO CONSIDERATION.

(7) WHENEVER A COASTAL STATE PERMITS NATIONALS OF OTHER STATES TO FISH FOR HIGHLY MIGRATORY SPECIES AS A PART OF ITS PERMISSIBLE CATCH WHICH IT IS NOT IN A POSITION TO OBTAIN WITHIN ITS EXCLUSIVE ECONOMIC AREA, THE TERMS AND CONDITIONS FOR GRANTING SUCH PERMISSION SHALL BE IN AGREEMENT WITH THE PROVISIONS OF ARTICLE 51, PARAGRAPH 4 AND THE TERMS AND CONDITIONS OF AGREEMENTS OR OTHER ARRANGEMENTS EXISTING BETWEEN THE INTERESTED STATES.

(8) FOR THE PURPOSE OF THE PROVISIONS IN PARAGRAPH 7 ABOVE, FISHING BY NATIONALS OF A STATE WILL BE UNDERSTOOD TO MEAN FISHING PERFORMED BY BOATS WHICH HAVE BEEN DULY REGISTERED BY THAT STATE AND WHICH ARE ENTITLED TO HOIST

THEIR FLAG. SUCH STATE SHALL EFFECTIVELY EXERCISE ITS JURISDICTION AND CONTTROL OVER THOSE BOATS OPERATING UNDER ITS FLAG IN ALL ADMINISTRATIVE, TECHNICAL AND SOCIAL MATTERS.

(9) IN CONFORMITY WITH ARTICLE 60, THE COASTAL STATE WILL ADOPT ALL NECESSARY MEASURES FOR THE PURPOSE OF INSURING, WITHIN ITS EXCLUSIVE ECONOMIC AREA, THAT ALL VESSELS COMPLY WITH THE RULES AND REGULATIONS IN FORCE IN RESPECT OF FISHING FOR HIGHLY MIGRATORY SPECIES.

(10) FISHING FOR HIGHLY MIGRATORY SPECIES BEYOND THE EXCLUSIVE ECONOMIC AREA SHALL BE SUBJECT TO THE PROVISIONS OF ARTICLES 103 THROUGH 106 OF THIS CONVENTION.

(11) NO PROVISION OF THIS CONVENTION WILL LIMIT A COASTAL STATE'S RIGHT TO PROHIBIT, REGULATE OR RESTRICT EXPLOITATION OF MARINE MAMMALS WITHIN ITS EXCLUSIVE ECONOMIC AREA. THE STATES WILL COOPERATE, EITHER DIRECTLY OR THROUGH THE COMPETENT INTERNATIONAL ORGANIZATIONS, WITH A VIEW TO INSURING THE PROTECTION AND RATIONAL USE OF THESE SPECIES.
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